

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Ameritech Corporation,)	
Transferor)	CC Docket No. 98-141
)	
and)	
)	
SBC Communications, Inc.,)	
Transferee)	
)	
Applications for Consent to the)	
Transfer of Control of Licenses and)	
Section 214 Authorizations)	

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To: The Commission

COMMENTS OF PILGRIM TELEPHONE INC.

On July 1, 1999, SBC Communications, Inc. ("SBC") and Ameritech Corp. ("Ameritech") submitted proposed conditions to the Commission in connection with the pending applications for transfer of control of various licenses and authorizations. On that same day, the Commission established a pleading cycle and invited public comment on the SBC's and Ameritech's proposed conditions.¹

In his statement accompanying the release of the proposed conditions, Chairman William E. Kennard stated that the proposed conditions evidenced SBC and Ameritech's commitment to open their markets to competition, and to suffer stiff penalties if they do not. Pilgrim Telephone, Inc. ("Pilgrim") remains dubious about the eleventh hour

¹ On July 7, 1999, the Commission extended the comment filing deadline to July 19, 1999. *Ameritech Corp.*, CC Docket No. 98-141, Order, DA 99-1342, released July 7, 1999.

conversion of such a confirmed monopolist as SBC. So that the Commission may consider the proposed conditions in full context, Pilgrim offers its experience with SBC's phenomenal market power and SBC's willingness to flex its muscle arbitrarily to forestall competition in the marketplace. In response to the Commission's call for comments, Pilgrim submits:

Pilgrim is an interstate communications provider that makes available to the public (1) common carrier casual access services, such as collect, calling card and teleconference; and (2) enhanced or information services, such as specialized teleconference, gab, chat, voice mail, bulletin board and telemessaging services. Many of Pilgrim's services are targeted to gay and lesbian markets, or to people seeking privately to converse on sexual, political and medical topics, and other topics of the private parties' choosing. Pilgrim does not provide content on any of its services.

For most of Pilgrim's services, Pilgrim is dependent upon incumbent local exchange carriers ("ILECs"), such as SBC and Ameritech, for billing and collection. This dependency is exclusive for casual access customers who do not have or choose not to use credit cards. Pilgrim's dependence also applies to customers desiring access to Pilgrim services while otherwise away from home, for example, its customers who are traveling. Pilgrim's customers and services are dependent upon ILEC billing because of the ILEC's unique customer relationship as the monopoly local carrier.

I. Arbitrary Decisions Designed to Harm Competition

Both SBC and Ameritech consistently have denied provide billing and collection for casual calling services, such as calling card calls and collect calling terminating to a customer of each company. SBC and Ameritech each has taken the position that it does

not need to provide this service. The non-provision of billing and collection for the casual calling services of third parties effectively prevents and competition in these fields. SBC and Ameritech have denied billing and collection in an arbitrary fashion, leaving the third-party carriers with no recourse.

A. Ameritech's Judgment on Pornography

Ameritech has denied Pilgrim access to billing and collection services because Ameritech believes that Pilgrim's services are "pornographic." Ameritech offered no other reason for the denial of services or raised any specific complaints, it merely stated that it was under no obligation to provide billing and collection to any party, and did not have to explain or justify its decision. Ameritech remains steadfast in its position even though it provides services competitive with Pilgrim's services, and directly provides explicit sexual content to its customers via cable television and Internet service offerings, all of which bear the Ameritech brand.

While Pilgrim believes Ameritech's refusal to bill for casual calling, calling card access and information and enhanced services, and refusal to provide real time BNA and blocking data, constitute violations of the Act and the rules and policies of the Commission, more importantly, it believes that Ameritech's actions betray its institutional monopolistic leanings. SBC's leanings are no better and its behavior demonstrates that it may be, institutionally, even more anti-competitive.

B. SBC's Corporate Image Policy

Several years ago SBC adopted a new policy of not providing billing and collections services to any party whose services are, *inter alia*, contrary to SBC's corporate *image*. The judgment that services are contrary to SBC's corporate image is

made in SBC's sole discretion and is not subject to review. Certainly, aggressive competitors are contrary to SBC's corporate image. More importantly, SBC defines this restriction in a manner that benefits only SBC's bottom line.

Not only will SBC not provide billing and collection for Pilgrim's services, it also refuses to provide billing and collection of normal, common carrier collect calling services provided by Pilgrim. Like Ameritech, SBC denies billing for Pilgrim's adult services, while providing billing for its own adult services. SBC conveniently defines its own services in ways that make its service appear to be different from a competitor's service, but the two are essentially the same.

For instance, SBC claims to have a strict policy against providing adult content. SBC actively promotes access to adult messages and themes via the internet. SBC bills and collects for customer's access to those materials. SBC explains this inconsistency by stating that it only provides access to the Internet, and does not bill for the content. SBC's distinction is without a difference, however, as a brief perusal of the URLs on various pages accessed through SBC's Internet access services clearly displays an SBC URL.

SBC's abuse of the *image* policy is not limited to Pilgrim's services. SBC has, in the past, used its control of its network to attempt to silence critics and opponents on various levels. In 1988 Southwestern turned off the 900 number billing for the campaign of the Democratic candidate for United States Senate in Texas, while still providing 900 number billing services for the campaign of the Republican candidate. A complaint was filed with the Texas Public Utility Commission. A series of articles was published in the *Austin American Statesman*, critical of SBC's efforts to benefit one campaign over that of a long-standing outspoken opponent. Finally, in light of the public opposition SBC

relented and began billing again for the democratic senatorial candidate. If the Commission allows the proposed merger to move forward on any basis, it will ignore the clear corporate mentality and objectives of the parties. Continued processing of the Applications will condone activities which are not only designed to favor SBC over competitors, but also are designed effectively to mute the voice of opponents.

II. Refusal to Share Non-Proprietary Information

Both SBC and Ameritech are also intransigent with regard to making available information that is useful and necessary for competitors, and which would benefit consumers. In light of their consistent conduct, it would be against the public interest to permit these companies to combine thereby restricting both any incentive to correct these errors going forward, and eliminating other possible sources for developing this information and making it available to competitors.

In the past, both SBC and Ameritech consistently have denied requests to provide access to non-proprietary databases and information. Both companies have denied requests to provide access to 900 number blocking databases so that consumers' choices to be blocked from access to various premium services could be honored. Both companies refused to provide this information, to the detriment of their customers and to the benefit of their own corporate bottom lines. In doing so, they restricted the ability of competitors to provide access to premium services while honoring consumer choice.

In the past, both companies have denied requests for provide real time billed name and address information ("BNA"). Real time BNA is necessary to verify the identity of consumers requesting telecommunications services and services provided over the telephone, and to protect against fraud. Again, in blatant disregard to the needs of their

consumers, and exposing their consumers to unnecessary levels of fraud, both companies have refused to provide this information. The only reason for the companies to withhold this information is to provide them with a competitive advantage over possible competitors in a wide variety of service areas.

III. Thwarting the Competition Envisioned by the '96 Act

SBC and Ameritech are similarly recalcitrant in other pro-competitive Commission objectives such as number portability. Each of these companies attempts to delay, for as long as possible, the roll out of any program that may, even in the least, be of assistance to consumers or competitors if it does not add to the bottom line of these companies.

Ameritech has demonstrated its view of its requirements to open its network and its obligations under the Communications Act. One need only look so far as Ameritech's attempts to purchase alarm monitoring operations in violation of the act, and other anti-competitive actions. Permitting a party with a proven record of blatantly violating the Act and Commission policies to merge with its closest competitor will only encourage and spread the anti-competitive power of these companies.

IV. Elimination of Logical Competitors

Without a doubt, due to their experience, capital resources and unparalleled political clout, each of the Bell Operating Companies ("BOCs") is the principal competitor of each of the others.² It is beyond the comprehension of most new entrant

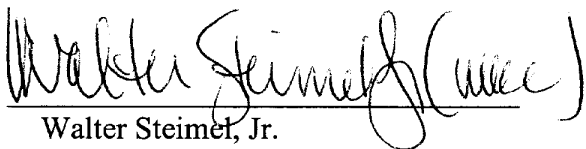
² The Commission may take official notice of the fact that, prior to the announcement of the SBC-Ameritech merger, Southwestern Bell telephone directories published in its five state territory listed Ameritech as one of its local exchange competitors.

competitors why the Commission would permit mergers between the parties positioned as the competitors most likely to be successful. SBC's acquisition has eliminated, for both companies, the company most likely to be competitive on a local exchange level by purchasing the competitor.

Reliance on the representations of SBC and Ameritech as to the consumer benefits of the merger is pure folly. SBC has demonstrated a corporate commitment of eliminating competitors, as well as anyone who may oppose its plans – either business or political. Ameritech's record in competition is similarly illustrious. Pilgrim asks that the Commission deny the Applications in the name of promoting competition in the marketplace. In the alternative, Pilgrim asks that the Commission condition the grant of the applications on the elimination of any corporate image policy or other policy which would deny services based on the content of private communications via common carrier services.

Respectfully submitted,

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July 19, 1999

**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...
Pilgrim Telephone, Inc.
...and Thank You for Your Comments**

Your Confirmation Number is: '1999719618415 ' 1

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